

# OKLAHOMA TAX COMMISSION

TAX POLICY DIVISION  
DAWN CASH, DIRECTOR

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August 5, 2009

Re: Sales Tax Inquiry; Our File No. LR-09-103

Dear

I am writing in response to your request regarding the proper sales tax treatment of a sales leaseback transaction. I have set forth the facts presented along with a response to your request.

## FACTS

The customer (a taxable OK hospital) purchased equipment from a supplier. The customer came to us for financing. We took assignment of the equipment Purchase Order and created a sale and leaseback transaction. We contacted the equipment supplier to arrange payment for the PO and submitted:

- An Assignment of Invoice document that states the customer/lessee "assigns, sets and transfers all rights, title and interest in the underlying equipment attached to the listed invoices" and
- Our Multi-Jurisdiction Uniform Sales & Use Tax Certificate

The equipment supplier explained that the sale transactions are with the hospital, a taxable entity. He asked that we provide OK law information that will allow:

- An Assignment of Invoices or
- An exemption for a Purchase Order substitution after the sale/installation of the equipment.

## RESPONSE

The sale of tangible personal property, unless specifically exempted by the provisions of the Oklahoma Sales Tax Code, is subject to the levy of sales tax. 68 O.S. §1354(A)(1). A sale includes but is not limited to "the exchange, barter, lease, or rental of tangible personal property resulting in the transfer of the title to or possession of the property." 68 O.S. §1352(22)(a).

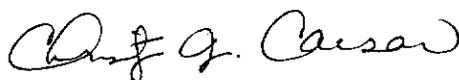
Oklahoma Administrative Code 710:65-1-2 provides that a sale as defined for purposes of the Oklahoma Sales Tax Code does not include a sale and leaseback.

Based on the foregoing facts and authority the sale of equipment to the hospital is subject to sales tax. State and any applicable local sales tax should be collected, reported and remitted by the supplier to the Tax Commission on the gross receipts<sup>1</sup> from the equipment sale to the hospital. The transactions consisting of the subsequent transfer by the hospital to the financing company and leaseback by said company to the hospital are specifically excluded from the definition of sale and therefore are not subject to sales tax.

This response applies only to the circumstances discussed in your request of July 10, 2009. Pursuant to Oklahoma Administrative Code 710:1-3-73(e), this Letter ruling may be generally relied upon only by the entity to whom it is issued, assuming that all pertinent facts have been accurately and completely stated, and there has been no change in applicable law.

Sincerely,

OKLAHOMA TAX COMMISSION



Christy J. Caesar  
Tax Policy Analyst

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<sup>1</sup> The terms gross receipts, gross proceeds and sales price are synonymous and are defined as "the total amount of consideration . . . for which personal property or services are sold . . . whether received in money or otherwise. . . ." 68 O.S. § 1352(12)(a).